

---

By: **Delegates W. Baker and McClenahan**  
Introduced and read first time: February 9, 2001  
Assigned to: Environmental Matters

---

A BILL ENTITLED

1 AN ACT concerning

2                                   **Department of Natural Resources - Oysters - Harvesting Areas and Seed**  
3                                   **Areas**

4 FOR the purpose of authorizing the Department of Natural Resources to plant  
5 oysters, shells, or other cultch or take any other restorative measures in areas  
6 designated by the Department; requiring that the first of a certain number of  
7 seed oysters produced in seed areas that are designated by the Department for a  
8 certain purpose shall be planted on natural oyster bars of the State; authorizing  
9 the Department to designate oyster seed areas for aquaculture purposes;  
10 authorizing the Department to designate portions of certain oyster seed areas  
11 for the production of seed for a certain use; altering the amount of seed oysters  
12 the State may sell to certain individuals under certain circumstances;  
13 increasing the number of acres that the Department may establish as  
14 aquaculture seed areas; and generally relating to the production of oysters.

15 BY repealing and reenacting, with amendments,  
16 Article - Natural Resources  
17 Section 4-1103  
18 Annotated Code of Maryland  
19 (2000 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

22                                   **Article - Natural Resources**

23 4-1103.

24       (a)       The Department shall take measures which in its judgment seem best  
25 calculated to increase the productivity or utility of any part of the natural oyster bars  
26 of the State.

27       (b)       The Department may close in any year no more than 30 percent of the  
28 natural oyster bars in the waters of the State. The Department may prohibit or  
29 restrict the catching of oysters on natural oyster bars whenever in its judgment these

1 measures will increase the productivity or utility of these areas. The Department may  
2 plant oysters, shells, or other cultch or take any other restorative measures, which it  
3 deems advisable, on natural oyster bars OR OTHER AREAS DESIGNATED BY THE  
4 DEPARTMENT. The Department shall publish a notice of intent to close any area of a  
5 natural oyster bar not less than 30 days prior to the proposed closing date in one or  
6 more newspapers of general circulation in each county of the State. The Department  
7 shall schedule a public hearing on the proposal not less than 15 days before the  
8 proposed closing date. The hearing shall be held at the county seat of the county in  
9 which the affected waters are located. If the affected waters are located in more than  
10 one county then the hearing shall be held in that county seat closest to the affected  
11 waters. If the area affected is totally within State waters, then the hearing shall be  
12 held in Annapolis.

13 (c) The Department may reopen an area if it determines reopening is  
14 advisable. An area shall be reopened by notice of reopening published in the same  
15 newspapers that published any closing notices. However, an area may not be  
16 reopened until a lapse of 48 hours from the publication of the notice of reopening.

17 (d) The Department may select and reserve for its own use areas, to be known  
18 as seed areas, within the waters of the State for the propagation of seed oysters. The  
19 number, size, and location of these areas shall be determined from time to time by the  
20 Department. However, no more than 5 percent of the natural oyster bars of the State  
21 shall be designated as seed areas. The first million bushels of seed oysters produced  
22 in seed areas DESIGNATED BY THE DEPARTMENT FOR THE PUBLIC FISHERY shall be  
23 planted on the natural oyster bars of the State. The Department shall publish a notice  
24 of reservation not less than 30 days before the closing date of any seed area in one  
25 newspaper of general circulation in the State and at least one newspaper of general  
26 circulation in each county of the State. The Department shall schedule a public  
27 hearing on the proposal not less than 15 days before the proposed closing date. The  
28 hearing shall be held at the county seat of the county in which the affected waters are  
29 located. If the affected waters are located in more than one county, the hearing shall  
30 be held in that county seat closest to the affected waters, but if the area affected is  
31 totally within State waters, the hearing shall be held in Annapolis.

32 (e) (1) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, THE  
33 DEPARTMENT MAY:

34 (I) DESIGNATE OYSTER SEED AREAS FOR AQUACULTURE  
35 PURPOSES; AND

36 (II) DESIGNATE PORTIONS OF OYSTER SEED AREAS ESTABLISHED  
37 UNDER SUBSECTION (D) OF THIS SECTION FOR THE PRODUCTION OF SEED FOR USE  
38 ON PRIVATE AQUACULTURE GROUNDS.

39 (2) Except as provided in subsection (f) of this section, the State may sell  
40 no more than [50] 10 percent of seed oysters in excess of one million bushels produced  
41 annually in seed areas DESIGNATED BY THE DEPARTMENT FOR THE PUBLIC FISHERY  
42 to citizens who hold valid leases under the provisions of this subtitle for no less than  
43 the prevailing price of seed oysters of similar quality in nearby states. Conditions of

1 sale may be prescribed by rule or regulation of the Department. The proceeds from  
2 these sales shall be credited by the Comptroller to the Fisheries Research and  
3 Development Fund.

4 (f) (1) In addition to the provisions of subsections (d) and (e) of this section  
5 concerning the establishment of oyster seed areas and the sale of seed oysters to a  
6 leaseholder, the Department may:

7 (i) Establish aquaculture seed areas not exceeding a total  
8 aggregate of [90] 150 acres in the State;

9 (ii) Designate the seed oysters produced in those aquaculture seed  
10 areas for sale to a resident of the State who holds a valid lease or an aquaculture  
11 permit to cultivate shellfish; and

12 (iii) Adopt regulations necessary to implement the provisions of this  
13 subsection.

14 (2) The Department shall credit the proceeds of any sale of seed oysters  
15 under this subsection to the Fisheries Research and Development Fund in the  
16 Department for the benefit of the public oyster fishery.

17 (3) The Department shall:

18 (i) Sell, at prevailing market prices, seed oysters produced in an  
19 aquaculture oyster seed area to a resident of the State who holds a valid lease or an  
20 aquaculture permit to cultivate shellfish;

21 (ii) Use any revenue derived from the sale of seed oysters to  
22 reimburse the Fisheries Research and Development Fund for any expenditure needed  
23 to create the aquaculture oyster seed areas under this subsection;

24 (iii) Credit any net proceeds from the sale of seed oysters remaining,  
25 after reimbursement is made under subparagraph (ii) of this paragraph, to the  
26 exclusive use of the public oyster fishery;

27 (iv) Maintain for each aquaculture seed area a record detailing all  
28 expenditures required to create and maintain the seed area and all proceeds of the  
29 sale of seed oysters produced in the seed area;

30 (v) In establishing and maintaining the aquaculture seed areas,  
31 limit expenditures to \$200,000 annually, and after the first year, any expenditure  
32 required to maintain the seed areas shall be funded only from revenues derived from  
33 the sale of seed oysters produced in the seed areas; and

34 (vi) Consult with the County Oyster Propagation Committee in  
35 establishing an aquaculture seed area in that county.

1                   (4)       The Department may not create aquaculture seed areas within the  
2 jurisdictional boundaries of Dorchester, Kent, Queen Anne's, Somerset, or Talbot  
3 counties, or in the tidewater tributaries of Charles County, except the Patuxent River.

4       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 June 1, 2001.